

DAY 34: DEFENCE LAWYERS THREATEN WITNESS: “YOU CAN’T SAVE HER”

34th Hearing, Women’s Section, Korydallos Prison, Athens, 2 December 2015

1. Court access

Hearings continue to be accessible to members of the public, provided they present their identity cards at the entrance. However, the crowd in the courtroom had thinned. We note again that spaces reserved for journalists are almost always occupied. A malfunctioning microphone was added to the list of issues with the venue.

2. Presence and representation of the defendants

Eight (8) defendants were present at the beginning of the hearing; thirty-one (31) defendants were registered as absent. Thirty (30) defendants were represented by their counsel.

3. Cross-examination of witness Dimitra Zorzou by civil counsel (continued)

Defence counsel Angelos Angeletos (for Eleni Zaroulia) took the floor and objected to a specific photographer who, he insisted, took photographs of him while purporting to photograph the witnesses. The presiding judge, Maria Lepenioti, responded that the court had responded to such objections in the same way at each hearing.

Responding to questions from civil counsel Thanasis Kampagiannis (for the Egyptian fishermen), the witness stated that Tsaldari street is lit by lampposts and by the shop windows in the area. She added that the median strip is partially lined with trees. When shown a photograph, she recognized the stretch of Tsaldari street between Kefallinias and Xanthou streets. One side of the road was visible from the other. None of the 20 to 30 Golden Dawners tried to hinder the two attackers who emerged from behind a dumpster to beat Pavlos Fyssas from behind. The Golden Dawners were stronger in numbers and were carrying bats. Their noise they made was terrifying.

Golden Dawners do not always know their victims, she said. They select them on the basis of their skin colour or origin. Their aim is to attack foreigners. The witness

stated that she and her friend came forward as eyewitnesses, though there were another two people on the scene who did not want to testify. The witness was afraid, but considered it her duty to come forward as a witness given a man had been murdered in front of her.

Responding to questions from civil counsel Kostas Papadakis (for the Egyptian fishermen), the witness testified that the Golden Dawners did not seem surprised to see Roupakias' car. On the contrary, they just continued with what they were doing. The witness does not remember if Roupakias left the engine running when he got out of the car. Moreover, she stated that she didn't notice the police before Roupakias' attack on Fyssas. The witness gave the police her details an hour after the event. She stated that, had she decided to leave the scene earlier, no one would have taken note of her as an eyewitness. The witness also said that, despite Golden Dawn's attempts to disassociate itself from the incident, the witness herself believes only that which she saw herself.

Responding to questions from civil counsel Takis Sapountzakis (for the PAME trade unionists), the witness stated that she had already described the meaning of "assault division". The army also has divisions which mission is to attack. It is well known from the media that Golden Dawn has assault divisions. The people who attacked Fyssas and his friends were an assault division. It wasn't a scuffle; it was an attack.

Responding to questions from civil counsel Haris Stratis (also for the PAME members), the witness stated that Roupakias could have run away had the police not arrived. Golden Dawners attack those who are different from them. The attack on the PAME trade unionists and the assault on Fyssas were similar: the attackers were wearing the same clothes and carrying sticks. The witness added that Golden Dawn attacked leftist students at her university department without previously knowing them.

Responding to questions from civil counsel Eleni Zafiriou (for PAME), the witness said she has seen assault divisions at demonstrations, marching alongside Golden Dawn cadres. When they shout out the slogan "Blood, Honour, Golden Dawn", they are referring to their organization, which later became a party. The witness stated that

she knows of no official members of the party condemning the organisation's criminal acts.

Thodoris Theodoropoulos (also for the PAME members) read part of a transcript of a recorded exchange from the case file between a defendant and an unknown interlocutor. The exchange refers to the assault divisions' attacks on migrants and on communists. The witness stated that she has no doubts regarding the aggressive and combative nature of the assault divisions.

4. Cross-examination of witness Dimitra Zorzou by defence counsel

Responding to questions from defence counsel Christoforos Tsagkas (for Giorgos Germentis and Anastasios Michalaros), the witness stated that the policemen arrived from the opposite side of Tsaldari street and arrested Roupakias. The witness is certain that Roupakias was arrested by one policeman and one policewoman. The counsel showed a photograph to the witness, who recognised Tsaldari street. She also recognised the bench on which she and her friend had sat. When shown another photograph by the counsel, the witness stated that the dumpster behind which the two Golden Dawners hid was not, on that night, in the position depicted, but rather on the median strip. Here, civil counsel intervened and displayed a different photograph, of another dumpster. The witness confirmed that the dumpster in Tsagkas' photograph had been in a different place to the one concealing the Golden Dawners. That one was near Kefallinias street. The witness stated that she saw one man emerge from Xanthou street, cross Tsaldari street and hide behind the dumpster with another man who was already there.

When they emerged from behind the bin, they did not approach the witness and her friend. The witness could not remember the exact route she and her friend had taken on their walk after being dropped off by another friend. The Olympiakos football fans had passed by her and her friend, but she couldn't remember in what direction. Fyssas' friend and the Golden Dawners exchanged insults only during the assault. Fyssas' friends shouted, "Go away, you fascists!" Until that point, the Golden Dawners had been the only ones throwing insults.

Roupakias got out of his car, approached Fyssas, embraced him, did what he had to do, and started to leave. When Roupakias got out of the car, the witness had no idea that he planned to stab Pavlos. The Golden Dawners did not move away when Roupakias approached; some of them crossed the road to the median strip while three of them stayed next to Pavlos.

Defence counsel Nikos Kontovazenitis (for Anastasios Anadiotis) asked the witness what she meant when she referred to herself as a “deeply politicised” person. The judge did not allow the questions. The counsel also asked the witness if her eyeglasses were prescription glasses. The witness responded that on that day she was wearing contact lenses for 1.5-degree myopia.

Responding to questions from defence counsel Vasilis Oplantzakis (for Ioannis Kazantzoglou and Giorgos Roupakias), the witness said that she cannot remember where exactly she and her friend were dropped off by their other friend. Nor can she remember the exact route of their walk. The witness just happened to sit on that specific bench. From where she and her friend were sitting, they could see two shops: a clothes shop and a cosmetics boutique. The judge did not allow any questions referring to the witness’s political persuasion. Responding to the counsel’s questions, the witness said that she didn’t hear insults relating to the football game. She was terrified that night. She did not see the Golden Dawners near Roupakias hitting the police officers.

Responding to questions from defence counsel Dimitra Velentza (for Thomas Barekas, Aristotelis Chrysafitis, Elpidoforos Kalaritis, Nikos Kouzilos and Theodoros Stefanos), the witness said she remembered that she was wearing a black dress and a black and white cardigan. She didn’t notice any bystanders at the time of the murder. She saw a couple walking their dogs; they stood next to her and her friend for a while but left after the incident. The witness could not remember what clothes Fyssas’ friends were wearing. When Fyssas cried out, “Run!”, his friends ran past the witness and her friend; no one tried to block their path or run after them. Initially, she had taken Roupakias’ car for a vehicle from the police security division because it arrived on the wrong side of the street as the incident was playing out. The witness stayed at the scene until she had given the police her details. She did not follow the

ambulance. She and her friend described the incident to a police officer at the Keratsini police station, but it was not considered an official statement.

Responding to questions from defence counsel Dimitris Tzempetzis (for Konstantinos Korkovilis), the witness said she first heard the term “assault division” in the media. When asked about her previous statements to the police, the witness said she did not, at the time, make a fuss over the fact that the police had not transcribed all of her answers and that some were omitted; she assumed it was their job to know how to sort relevant details from the inconsequential.

Oplantzakis repeated his request that the witness be cross-examined with an earlier witness, police officer Giorgos Rotas [see court reports for days 21–23]. He also asked that the witness be kept isolated during the break. The judge responded that she could not limit the witness’s movements.

Responding to questions from defence counsel Dimitris Gavelas (for Tasos Pantazis, Giorgos Patelis and Venetia Popori), the witness stated that she wasn’t aware if other parties have local branches. The presiding judge did not allow a question regarding the witness’s political engagement. The witness said she saw the video of Giorgos Patelis’s speech on the internet. She cannot remember when she saw it, but it was shortly before her appearance in court. No one showed her the video; she found it herself. She could not remember how she found it, but knew she saw it on YouTube. The witness did not know whether the Communist Party (KKE) had a local organisation in the area – she has seen the party logo somewhere. She has not heard any “unfortunate” statements made by other politicians.

Responding to questions from defence counsel Stathis Karydomatis (for Tasos Pantazis), the witness said she could not remember what Fyssas was wearing. She saw Golden Dawn’s attack on migrant vendors in the street markets on the media. She herself witnessed an attack by a Golden Dawn assault division in her university. However, she was never herself the target of a Golden Dawn attack or of Golden Dawn propaganda.

Responding to questions from defence counsel Yiannis Zografos (for Antonis Gregos and Nikos Michos), the witness said she knows nothing about the judicial

proceedings over Golden Dawn's attacks at street markets. She qualified a fascist as someone who seeks to impose their views on others. The counsel asked the witness whether she knows of other divisions, such as the "angelic divisions" [sic]. The presiding judge requested counsel to sum up.

In response to questions from defence counsel Angeletos, the witness said Golden Dawn attacks people of other ethnicity, which can be deduced from the language they speak, for instance. They could be Africans, Pakistanis, Iraqis, etc.

Responding to questions from defence counsel Alevras (for Nikos Kouzilos), the witness said that throughout the incident, she feared for her physical wellbeing. She did not leave the scene because she was afraid of what might happen a few meters down the road. The judge did not allow a question on whether the witness regards her testimony as significant or whether she feels accountable for it. The witness stated that she does not belong to a political party. She participated in her university's student assemblies. She said she does not know whether political parties have constitutions or how political parties participate in elections. She knew of Golden Dawn before it entered parliament, from slogans she saw written on the walls. Back then, Golden Dawn was probably just a group; now it is a political party. Regarding Golden Dawn's structure, she knew only what was published in the media when the trial started. She did not, however, remember where exactly on the internet she read about the administrative roles of the [Golden Dawn] district leaders, cell leaders, etc., but added that these can be inferred from the titles themselves.

Defence counsel Periklis Stavrianakis (for Christos Pappas) requested the judge to ensure that the witness cite her sources, suggesting that failure to do so threatened her trustworthiness as a witness. The judge responded that the matter of the witness's reliability can be settled by everyone and by the court.

Alevras then continued with his questions. The witness responded that the cell is the smallest structural unit of the organisation. She also knows from the media that the district leaders are MPs. She knows from the media and from online videos that their leader is Nikos Michaloliakos, whose orders the rest obey.

Responding to questions from defence counsel Panagiotis Michalolias (for Dimitris Koukoutsis and Michaloliakos), the witness said that she does not belong to any specific political grouping, but has well-defined political views. The witness stated that she has expressed herself politically on the matter of Golden Dawn on social media, but she cannot remember exactly what she wrote. In September 2013, she wrote something condemning the attack. Here, the counsel began to read out antifascist posts from Facebook, and asked the witness if they were hers. The witness responded affirmatively. One particular post attributed to the witness read: “Fascists, now you will go back to your holes.” The post caused tensions to mount between civil and defence counsels, leading the judge to call a break.

When the court resumed, the judge asked the counsels not to repeat the incident preceding the break. The witness stated that as she was leaving the courtroom during the break, she heard someone from the defence say: “Take her, but you can’t save her.”

Michalolias then continued with his questions. The witness responded that she knew about the murder of two Golden Dawners in the Athens district of Irakleio, but could not remember her position on the matter. The witness had participated in some Communist Party initiatives in her university. She met Fyssas’ friends after the murder. She and Dimitris Melachrinopoulos, Mantas and Xypolitos became friends on Facebook after the murder. They became friends in order to feel safe; so that if something happened to one of them, the others would find out. The witness said the policeman at the crime scene took down her details and those of her friend and drove them both to Keratsini police station in his car. At the police station, a policeman asked them what had happened, but did not write anything down. Then, at around 4am, others drove them Attica General Police Headquarters (GADA) for their statement. Responding to a question, the witness clarified that the Golden Dawners who attacked leftist groups in her department were not affiliated with the university in any way. The attack in her university took place about one year after the Fyssas murder. She doesn’t know if it was reported.

Responding to questions from defence counsel Nikos Rousopoulos (for Ioannis Lagos), the witness stated that she hadn't heard Syriza MP Christos Karagiannidis' statement that he has bats and masks at his house for use on demonstrations.

Responding to questions from defence counsel Konstantina Poulia (for Thomas Marias), the witness said that Golden Dawners attack immigrants, communists, leftists and anyone who supports an ideology opposed to theirs. The Golden Dawners involved in the attack were well-built and with toned shoulders.

Responding to questions from defence counsel Velentza, the witness stated that she, Melachrinopoulos and Mantas met when they were giving their statements, but did not speak to each other.

Responding to questions from defence counsel Karydomatis, the witness said she does not belong to any political organisation and that she heard of the assault on the PAME trade unionists through the media.

Responding to questions from defence counsel Stavrianakis, the witness repeated that the man sitting in the car with Roupakias tried to separate him from the arresting police officer. The witness has heard about other criminal organisations such as terrorist groups, which operate secretly and conceal their faces.

5. Defence counsel request that Zorzou be cross-examined with police officer Rotas

The judge asked the prosecutor to submit her motion regarding defence counsel Oplantzakis's request, under article 225 of the code of criminal procedure, that that Dimitra Zorzou be cross-examined with police officer Giorgos Rotas.

The prosecutor proposed that the request be accepted, given Zorzou's testimony introduced new evidence that problematises the policeman's testimony.

Civil counsel Andreas Tzelis (for the Fyssas family) asked that civil counsel be given a copy of the request. The judge read the document out loud. Tzelis stated that the Fyssas family does not object to the cross examination, but doubts that it will prove useful. He added that the cross examination should also involve the remaining policemen, Dimitris Kourentzis, Konstantinos Kotsovos and Christos Deligiannis, who also testified that someone tried to drag Roupakias away.

Civil counsel Chrysa Papadopoulou (for Irini Fyssa) pointed out that the defence's request was vague and did not state exactly what it seeks to clarify. She added that the defence should have asked for a cross-examination with the first police witness, Deligiannis, rather than with Rotas.

Civil counsel Papadakis said the request was premature and inadmissible because it was submitted orally at the previous hearing, before the witness had concluded her testimony. Moreover, it is vague and does not justify the defence's choice to cross-examine Kourentzis. He described the request as unacceptable and groundless.

Civil counsel Kampagiannis opined that the request did not refer to any specific discrepancies that need to be clarified.

Defence counsel Velentza interjected to state that Kampagiannis was not admitted as a counsel in the Fyssas murder case. The judge replied that the request was general and does not specify whether the points that require clarification refer only to the specific case.

Civil counsel Angelos Vrettos (for the PAME members) also criticised the vagueness of the request. He insisted that it should be denied – alternately, that the witness be cross-examined with all the police officers.

Civil counsel Sapountzakis also commented on the ambiguity of the request, which he described as premature given the examination of the evidence has not been completed.

Defence counsel Stavrianakis insisted that the request did not require a written justification; it could be qualified verbally.

Defence counsel Oplantzakis clarified that he submitted the request orally when the witness referred to a male passenger in Roupakias' car and who tried to separate Roupakias from Rotas as he tried to arrest him.

Defence counsel Velentza stated that the policemen all contradict the witness on that point and that the discrepancy requires clarification.

Defence counsel Karydomatis agreed to the prosecutor's motion because, as he put it, the witness raised huge contradictions.

Civil counsel Vrettos asked that the court only proceed with the cross-examination after all policemen involved in the case have given evidence.

The court reserved its response to the motion and adjourned until Friday 4 December 2015, at 09:00.